

## THE NEWS OF NORFOLK ON PAGES TWO, THREE AND FIVE

# ROYAL BAKING POWDER

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## COURT DECISIONS.

Notes of Cases Recently Decided,  
Which are of Interest to  
Our People.

DIGESTED BY W. B. MARTIN.  
(Exclusively for Virginian-Pilot.)

CASHION V. WESTERN U. TEL. CO.  
Supreme Court of North Carolina.  
April 11, 1899.

WHEN AN AGENT SENDS A TELEGRAM IN HIS OWN NAME, ANNOUNCING A DEATH, HIS FAILURE TO NOTIFY THE COMPANY OF THE RELATION OF THE ADDRESSEE AND HIS PRINCIPAL, AND THAT IT IS SENT FOR THE LATTER'S BENEFIT, WILL NOT PRECLUDE THE PRINCIPAL FROM RECOVERING FOR HIS MENTAL SUFFERING CAUSED BY A FAILURE TO DELIVER THE DISPATCH.

This was an action to recover damages for failure to promptly deliver a telegram. The telegram announced the death of plaintiff's husband, and requested her brother-in-law to come to her. The telegram was sent by Payne as agent for plaintiff, in his own name, and he did not notify the company of the relation between the plaintiff and the addressee of the dispatch, or that it was sent for her benefit. The plaintiff claimed damages for the mental anguish caused her by the delay in the delivery of the message. The lower court held that she could not recover for such suffering and gave her judgment for \$5 cents, the cost of the telegram, whereupon she appealed.

The court says:  
This directly presents the question whether the plaintiff can recover damages for mental anguish caused by the negligence of the defendant in failing to promptly deliver a telegram sent through an agent, when the name of the plaintiff was not signed to the telegram, and when the fact that it was sent for her was not disclosed to the defendant at the time the message was sent, nor were her relations with the addressee then communicated to the company. We intended to decide this question at the first hearing, and thought we had done so, at least by direct inference, but it seems, not explicitly enough to be understood. To prevent any further misconception, we say, plainly, she can recover, if otherwise entitled. In other words, the failure to give such information was no bar to the action, or to the recovery of substantial damages. In *Layne v. Telegraph Co.*, 123 N. C. 129, it was held that, where a telegram relates to sickness or death, it is not necessary to disclose to the company the relation of the parties, as there is a common sense suggestion that it is important. The same rule applies here. The telegram in question stated that Mr. Cashion had been killed while at work, and on its face suggested to somebody. The defendant knew that somewhere there was a vacant chair; that some one the lonely deathwatch was keeping. Who or where it mattered not to the defendant, as it had no more right to wrong one person than another.

The able counsel for the defendant relies upon *Hadley v. Baxendale*, 9 Exch. 341.  
This rule is almost universally followed as to all ordinary business transactions, but can it have any possible application to the case at bar? We think not. What probable damages could Mrs. Cashion possibly have in contemplation, when, in the first hour of her bereavement, she sent a telegram announcing the sudden and violent death of her husband? Surely she could not be expected to dictate such a telegram with the cool deliberation with which a man would contract for the shipment of a mill shaft; nor can her mental anguish be measured by the rule laid down in determining the lost profits of *Hadley's mill*. We must submit that damages for mental anguish are somewhat anomalous, and the extreme difficulty of their measurement by any ordinary rule of law has led many jurisdictions to reject the doctrine. We have found it established in this State, and feel compelled to uphold it, on the highest principles of public policy and of private right, and must give it such a reasonable construction as will enforce its legitimate results.

One other principle must be kept in view: A telegraph company is in the nature of a common carrier. Claiming and exercising the right of condemnation, which can be done only for a public use, it is thereby affected with a public use. It owes certain duties to the public, which are not dependent upon a personal contract, but which are imposed by operation of law. A simple contract is an agreement between two parties—a drawing together of two minds to a common intent—and must be voluntary as well as mutual. Whenever a man, at a proper time and place presents a telegram to the company for transmittal, and at the same time tenders the proper fee, the company is bound to receive, transmit, and deliver it with reasonable care and diligence; it cannot refuse to receive it, and, while it may protect itself by reasonable precautions, it cannot insist upon a personal contract contrary to its usual custom or to public policy.

The failure of the telegraph company to promptly deliver a telegram "is not a mere breach of contract, but a failure to perform a duty which rests upon it as the servant of the people." While reaffirming the doctrine, we must again earnestly caution juries against its abuse. The defendant is in no way responsible for the anguish suffered by the plaintiff for the loss of her husband. All that can possibly be charged to it is the injury resulting from a negligent failure to deliver the telegram, and the jury, in considering this matter, should carefully guard against the sympathy they would naturally

feel for the widow and orphan child. Reversed.

STATE, & C. V. KANSAS CITY & G. R. CO.

Supreme Court of Louisiana.  
February 6, 1899.

A RAILROAD COMPANY CANNOT BE FORCED TO ESTABLISH A DEPOT AT A PARTICULAR PLACE UNLESS SUCH DUTY HAS BEEN IMPOSED UPON IT BY GENERAL LAWS, OR BY ITS CHARTER.

This was a petition for a mandamus to compel the railroad company to establish a depot at the town of Leesville. The petitioners were citizens of that town, merchants, &c., and one of them had given the right of way for the railroad through the town, and they say they would keep a proper depot there. The railroad company for six months stopped its trains and received and delivered passengers and freight at a switch about the center of the town, but afterwards the company bought some land adjacent to the town, but in a swamp, and built a depot thereon, which was inaccessible to the public on account of marshy roads, and thousands under part of them. The company had plotted the land into lots and petitioners alleged the location of the depot there was for the purpose of selling the lots, &c. The lower court refused the petition and the petitioners appealed.

The court says:  
As matters stand the only question before us is whether, as a matter of law, the petitioners have the right, through mandamus, to force the defendant to establish a depot at Leesville. The Supreme Court of the United States has called upon to consider this question in *Richmond v. Washington*, 142 U. S. 413, under a state of facts very similar to those alleged by the petitioners in their petition. In discussing the question the Supreme Court of the United States declared that "a writ of mandamus to compel a railroad corporation to do a particular act in constructing its road or buildings, or in running its trains, can be issued only when there is a specific legal duty on its part to do that act, and clear proof of that duty."

"To hold that the directors of this company, in determining the number, place and size of its stations and other structures, having regard to the public convenience, as well as its own pecuniary interests, can be controlled by the courts by writ of mandamus, would be inconsistent with many decisions of high authority in analogous cases." The court quoted approvingly from *People v. New York L. E. & W. R. Co.*, 100 N. Y. 20, in which the court refused to grant a mandamus to compel a railroad corporation to construct and maintain a station at a village containing 1,200 inhabitants. The court said: "As the duty sought to be imposed upon the defendant is not a specific duty imposed by statute, the court cannot enforce its performance by mandamus. It cannot compel the erection of a station house, nor the construction of one. No doubt, as the respondent urges, the court may by mandamus also act in certain cases affecting corporate matters, but only where the duty concerned is specific, and plainly imposed upon the corporation."

LAMBERT'S POINT.

Miss Rosa Friary, who recently graduated with distinction at Mount Sinai Training School for Nurses, in New York, is visiting her sister, Mrs. Thos. A. Smothers, corner of Pocahontas and Parker avenues.

Mr. and Mrs. John Organ, of Pottersburg, have returned from a visit to relatives in Dinwiddie county. Bicycle riding is a very popular pastime with the ladies of Lambert's Point. The fair sex are out on their wheels in large numbers every evening.

Next Sunday afternoon a band of young ladies will be organized at Lambert's Point M. E. Church.

Mr. Andrew Riggins' handsome store and residence, on the corner of Pocahontas avenue and Bowden's Ferry Road, is fast nearing completion.

The board walks on Pocahontas, Lawrence and several other avenues in the village are in a very dangerous condition. In numerous places the ends of the planks have broken loose from their fastenings and project upwards a foot in height. There is danger of pedestrians who have to traverse these streets being seriously hurt by stumbling and falling over them.

It is said that there is a possibility of the celluloid factory opening up again in the near future.

The early pea crop and large quantities of them are being shipped to the North daily.

Mr. George W. Taylor Dead.

Mr. George W. Taylor, a well-known Norfolk man, died at his home, 23 Shields street, last night at 8:30 o'clock. He was in his fifty-ninth year, and was connected with the Norfolk and Western railroad.

The deceased was a member of Harmony Lodge, No. 19, Jerusalem Encampment, No. 4, Canton; Norfolk Lodge, No. 22, I. O. O. F., and also a member of Charity Lodge, No. 22, K. of P.

He leaves a wife and several children, besides many friends to mourn his death.

The funeral arrangements have not yet been completed.

It takes 500 roses to make a teaspoonful of perfume. It takes the best quality of white corn, rye and barley malt to produce the G. O. Taylor Whiskey; more than that, it takes seven years of actual age, ripening in barrels, no artificial methods of aging, but nature's summer heat and winter cold. It isn't possible to make whiskey old in a day, a month or a year. It won't have the "marks" of maturity unless actual time is allowed for the ripening. G. O. Taylor Whiskies are sold only in bottles bearing our firm name signature on face and neck labels. CHESTER H. GRAVES & SONS.

For sale at White Bros., Norfolk, Va., Brown's Hotel, Portsmouth, Va.

## BRIEF ITEMS OF INTEREST.

Mr. L. O. Miller, of Miller, Rhoads & Co., has removed from Richmond. Mr. L. C. Roberts will erect three two-story brick tenements on Chapel street, south of Henry.

The first shipment of Georgia watermelons were received here yesterday. They were consigned to J. E. Britton & Co.

All arrangements have been made to have a grand concert on the occasion of the Moonlight Excursion Monday night, which will no doubt be a great success, as the gentlemen in charge are determined to have this the finest of the season. Leave Portsmouth at 7:30, Bay Line wharf; leave Norfolk 7:45, Southern Railway wharf. Cars meet boat on return.

Mr. John Mariner is at Mackeesport, Penn., with Wilton Boy, Irene, Too Soon and several others of his string. They were entered in the races there yesterday and to-day.

Organizer L. L. Powell, of the Norfolk Lodge, Knights of the Mystic Chain, has enrolled a large number of members since its first meeting. The next meeting will be held at Elks' Hall next Friday night at 8 o'clock.

A meeting of the directors of the Tidewater Carnival Association was held last night at the Board of Trade rooms, but as the attendance was small, no business was taken up.

Councilman W. P. Oberdorfer and family are summering at Ocean View, in the Aeolus cottage.

Capt. G. A. Gathney and wife, of Surry county, are the guests of Mr. G. H. Sykes, No. 280 Penchurch street. Mr. Frank Egner, a former superintendent of the Gas Works, in this city, is here on a brief visit.

Mr. J. W. Tadlock, who has been ill at St. Vincent's Hospital for the past two weeks, left the hospital yesterday. In a few days he will go to his home in Bertie county, N. C., to recuperate.

That the glorious Fourth is near is evidenced by the fact that fireworks are appearing in the store window displays.

Mrs. G. H. Williams and children left last night via the Washington steamer of the Baltimore and Ohio, for Berryville, Va., where they will spend the summer.

Dr. Fishburn and family, of Washington, D. C., who have been spending some time at Virginia Beach, left last night for their home.

A colored man by the name of Charles Jones had his arm badly cut yesterday while assisting in removing a safe. He went to the police station, where his wound was attended to by "Doctor" Hamilton.

The police have a colored boy about 4 years old who was picked up on the street. His name is not known.

## BRAMBLETON WARD.

The burning of a lot of garbage and trash in a lot in rear of Reservoir avenue carried the Fire Department to that point about 9:45 a. m. yesterday. The blaze was extinguished by a stream from a hydrant.

Mr. Frank H. Gale has been confined to his residence, on Willoughby avenue, for several days by sickness. His condition last night was somewhat improved.

The Evergreen Social Club gave another delightful ride to Ocean View Thursday night under the chaperonage of Misses Roberts and Fisher.

Mrs. Harry L. Taylor, of West Brambleton avenue, who has been an invalid for the past four months, was able yesterday to leave her room and come down stairs.

The beautiful weather of last night contributed largely to the success of the lawn party given by the Brambleton W. C. T. U. The spacious lawn of Mrs. I. C. Wade, corner of Rose and Chubb avenues, was brilliantly illuminated in honor of the event, and for several hours the grounds were graced with the beauty and fashion of the ward, together with many visitors from the central part of the city. Cream, cake and fruits were served in abundance.

Serious complaint is made by the residents of East Brambleton avenue of the crowds of men and boys who congregate daily at Campostella bridge and bathe there in an almost nude state and use the most unbecoming language and the gross and indecent language. Communications calling attention to this immoral practice will be sent to the Local Board and City Councils.

Mrs. Wm. Sanderlin and her daughter, Miss Willie, of 115 North Maitly avenue, have recovered from their recent illness.

Mr. John Robertson, of No. 701 Jameson avenue, is confined to his home with rheumatism.

R. Y. P. U. of Spurgeon Memorial Church will tender their pastor, Rev. L. R. Christie, a reception Monday night.

## ATLANTIC CITY WARD

The June meeting of the Local Board of Improvement will be held on Monday night at 8 o'clock, when important sanitary matters will be discussed.

The joint excursion of the Sunday schools of Atlantic City Ward will be held at Buckroe Beach on the 25th instant.

The Junior Society of Christian Endeavor of Colley Memorial Presbyterian Church will be held Sunday afternoon at 4 o'clock. A program of special interest has been prepared for the meeting.

Episcopal services will be held at the W. C. T. U. Hall on Colley avenue Sunday night, conducted either by Rev. B. D. Tucker, of St. Paul's Church, or Rev. John E. Wales.

Riverside Park was visited again last night by over 200 colored people. Music and dancing was kept up until a late hour.

The Junior Epworth League of Leakes Memorial Church will have a grand rally Sunday afternoon at 3 o'clock.

Mr. J. S. Long has the contract for building four new modern style dwellings in the northern section of the ward.

A party of gentlemen have secured a boat sailing yacht and will go on a fishing excursion down the bay next week for a ten days' sojourn. They will take with them an ample supply of provisions and creature comforts.

Miss Carrie Lambert, of Avenue A, will shortly go on an extended summer trip, taking in several noted watering places.

## Drowned in New York.

Mr. Daniel Fogarty, a well-known engineer and ex-policeman, received the sad intelligence yesterday of his little 8-year-old son's drowning in New York. The body was recovered and will reach Norfolk for burial Sunday morning.

## STOLE PEDDLER'S GOODS.

PHIL MANNING ARRESTED BY  
DETECTIVE SERGEANT HEPPEL.

A negro by the name of Phil Manning is locked up at the police station on the charge of stealing from a house at the corner of Church and Water streets yesterday. The goods stolen are valued at about \$75. They belonged to Mary Davis, an Arab woman, who peddles silks and tapestries. The negro entered the room where the goods were in the open daylight, and just as he was emerging therefrom he was confronted by the little boy who lives with the Arab woman. The negro slapped the boy to scare him and went on his way. Later Detective Hoppel, to whom the case was reported, arrested Manning at the New York dock. The evidence against him is very strong. The goods were recovered.

## Searching For His Father.

Harry Davis, a youth about 12 years old, is in the city from the Eastern Shore, looking for his father, George Davis, a house carpenter. The child was found on the street Thursday night by a citizen and carried to police headquarters, where he told his story.

He says he has been living with his grandparents, near New Church post-office, and left for Norfolk four or five days ago; that his father wrote him frequently, and sent him a bicycle from this place. He desired to spend a few days with his father and return home, but could not find him. He was badly frightened when questioned closely, and wept. As soon as possible he will be returned to his grandparents, Mr. and Mrs. John Davis.

## Married at Fort Monroe.

Rev. Charles Wright Freeland, chaplain at Fort Monroe, and Miss Allen Map Vickery, daughter of Dr. Richard Vickery, of the Soldiers' Home, were quietly married Thursday in the beautiful chapel at the fort. The ceremony was performed by Rev. C. B. Bryan, pastor of Old St. John's Episcopal Church, in the presence of the immediate friends of the couple. There were no attendants, and after the ceremony Mr. and Mrs. Freeland took the boat for a stay of several days in the North.

Chaplain Freeland has been ordered to Manila, and will leave with his bride for that place about July 1. They will return to Fort Monroe some time next week and will at once prepare for their trip across the water.

## On Summer Tours.

Miss Deache and Miss Wood, former proprietors of Leache-Wood School, left last night for New York via the B. and O., en route to Europe, where they will make an extensive tour. They will be accompanied to New York by Miss S. G. Shepherd, who will leave them at that point and make a tour of Nova Scotia.

## King's Daughters' Trolley Party.

A trolley party was given last evening by Circle No. 5, of the King's Daughters, the party riding in a brilliantly illuminated car to several sections of the city. They boarded the car at the corner of Grandy and Freemason street and rode for two hours or more. The party was chaperoned by the officers of the circle.

## Returned After Seven Years.

Captain Danvig, who was master of the bark Dictator, which was wrecked at Virginia Beach seven years ago, and his wife and son, arrived in the steamer yesterday in command of the steamer Ella for bunker coal. This is Captain Danvig's first visit since the loss of his wife and son, who sleep in Elmwood Cemetery.

## Accident at the Power House.

An accident occurred to one of the engines at the power-house in Huntersville Thursday night, which has required the assistance from the Ocean View railroad power-house to run the electric cars on the Norfolk city railroad for the past two days and nights. The damage, which was the breaking of a piston rod, will be repaired by the putting in of a new one to-day.

## Death of Mr. William H. Foster.

Mr. Wm. H. Foster, aged 77 years, died yesterday at his home, 322 Boush street. The deceased had long been a citizen of Norfolk, and was well known. He is survived by a wife and five children, who live in Norfolk.

He had been ill for a long while. The funeral will occur this afternoon at 6 o'clock from his late residence.

## Y. M. C. A. Notes.

Every man in Norfolk is invited to a meeting which will be held in the Y. M. C. A. Hall Sunday afternoon at 3:45 o'clock. Rev. S. C. Hatcher, pastor of the Queen Street M. E. Church, will deliver the address. Mr. R. C. Turman will favor the audience with a vocal solo. The meeting will be for men only.

## Many Roanokers Here.

Two sections of a Norfolk and Western train brought many people from Roanoke and other points in Southwestern Virginia to Norfolk yesterday afternoon. The visitors will spend today and to-morrow sight-seeing in this immediate section, and will leave Sunday night on their return trip.

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Consisting of CUTICURA SOAP, to cleanse the skin, CUTICURA Ointment, to heal the skin, and CUTICURA RESOLVENT, to cool the blood, is often sufficient to cure the most torturing, disfiguring skin, scalp, and blood humors, rashes, itching, and irritations, with loss of hair, when the best physicians, and all other remedies fail.

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Lot of Men's English Cloth Trousers—in small Grey or Black stripes, fully cut, painstakingly made, perfect fitting, with belt straps and small legs.  
It's only while this special lot lasts that we can promise this price—

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**Electricity Cures Rheumatism, Neuralgia, Sciatica, Lumbago, and all diseases of the Stomach, Nerves and Skin.**

Particularly adapted for women and children.

Also Specialists in Truss Fitting. Ten years' experience in this work makes us able to guarantee the fitting of any Truss perfect, and giving relief in the worst cases of Hernia. Elastic Hosiery for Weak Limbs, Varicose Veins, &c. Abdominal Supporters, Shoulder Braces, &c.

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Recommended by the Medical Society of Virginia, is celebrated for its cures of dyspepsia in its various forms. Most extensive and beautiful grounds in the mountains.  
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10 miles from Salem, Va., opens June 1st, 1899. Elevation 2,200 feet, sulphur, chalybeate, freestone and limestone waters. Reasonable rates. Special attention paid to comfort and pleasure of guests. Write for descriptive pamphlet containing analysis of waters, references, &c. Long Distance Telephone connection. J. H. CHAPMAN, Manager. Jel-1m

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Montgomery county, Va.; open to visitors June 1st, 1899; these springs are situated on the summit of the Alleghany Mountains; the curative properties of the waters are well established and adapted to a wide range of disease; the accommodations are first-class in every respect; descriptive pamphlet and rates furnished on application. RIDGEWAY HOLT, Prop. my25-2m

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AJAX TABLETS POSITIVELY CURE ALL Nervous Disorders, Piles, Menstrual Troubles, Sleeplessness, etc., caused by Abuse of any other Excesses and Indiscretions. They quickly and surely restore Lost Vitality in old or young, and fit a man for study, business or marriage in time. Their use shows immediate improvement and effects a CURE where all other remedies fail. Write for the genuine Ajax Tablets. They are positive written guarantee to effect a cure, or we will refund the money. Price 50 cents per package, or six packages (full treatment) for \$2.50. By mail in plain wrapper, upon receipt of price. Circular free.

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General Wade Hampton's favorite resort is now open for the summer. Sulphur, Iron and Lithia Waters. Highly recommended for stomach, kidney and bladder troubles. Lithia Pool Baths, Riding, Driving, Fishing, Good Music, excellent Table Fare. Dr. H. Stuart MacLean, of Richmond, a physician for the season. Write for circular and special rates to parties. W. L. MILLER, Daggars, Va. Jel-1m

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As a nerve tonic, anti-dyspeptic and restorative these waters and baths are unsurpassed. Relieves nervous prostration, rheumatic skin and kidney troubles and kindred diseases. Cleans and beautifies the complexion. Dry atmosphere, romantic surroundings, modern conveniences. For booklet, address M. C. THOMAS, Manager, Shawsville, Va. my15-2m

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Round-trip and Excursion tickets on sale at reduced rates from all principal points.  
**HOT AND COLD MINERAL WATER BATHS.**  
For terms for board apply to  
Thomas F. Goode, Proprietor.  
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Health, Rest, Joy, Peace and Plenty abounds. \$25 to \$35. Booklets, G. T. HOPKINS & SON, McGaheysville, Va. Jel-eod-1m